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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/783,539	02/20/2004	Marie D. Radatti	E-2624	7445
<div>7590 08/22/2007</div> <div>Harding, Earley, Follmer & Frailey 86 The Commons at Valley Forge East 1288 Valley Forge Road PO Box 750 Valley Forge, PA 19482-0750</div>				
			<div>EXAMINER</div> <div>BECKER, DREW E</div>	
			<div>ART UNIT</div> <div>1761</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>08/22/2007</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/783,539

Applicant(s)

RADATTI ET AL.

Examiner

Drew E. Becker

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 August 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) 1-15, 32 and 33 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-31 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 February 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Claims 1-15 and 32-33 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected group, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/6/07.

Drawings

2. The informal drawings are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-17, 19-20, and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Popeil [Pat. No. 3,613,553].

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Popeil teaches a method of cooking by placing food in a plural shells (Figure 8, #19), placing the shells in a fryer in order to cook the food (Figure 1, #10-11), the oil being at 400-425°F (column 4, line 20), the walls of the shells inherently shaping the food during cooking, the metal walls of the shells inherently providing conductive heating of the food when contact is made, and assembling the shells by closing the lid (Figure 8, #39).

5. Claims 16-21 and 26-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Hunter et al [Pat. No. 5,988,048].

Hunter et al teach a method of cooking food by placing it in a plural shells (Figure 13), placing the shells in a fryer in order to cook the food (abstract), the oil being at 350-360°F (column 7, line 15), the food being dough (column 8, line 24), the walls of the shells inherently shaping the food during cooking, the metal walls of the shells inherently providing conductive heating of the food when contact is made, and assembling the shells before use (Figure 13).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al as applied above, in view of Aurio et al [20060099324] and Young et al [Pat. No. 6,048,564].

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Hunter et al teach the above mentioned concepts. Hunter et al do not recite the dough having konjac glucomannan, animal-based protein concentrate, and baking powder.

Aurio et al teach a dough comprising konjac glucomannan (paragraph 0024) and animal-based protein concentrate (paragraph 0033) as well as mixing (paragraph 0085) which naturally would have provided aeration of the mixture. Young et al teach a method for making dough comprising konjac glucomannan (column 4, lines 29-49) and baking powder (column 17, line 37). It would have been obvious to one of ordinary skill in the art to incorporate the konjac glucomannan, animal-based protein concentrate, and baking powder of Aurio et al and Young et al into the invention of Hunter et al since all are directed to methods of making food, since Hunter et al already included dough as the food but simply did not list its ingredients, since Aurio et al teach that konjac glucomannan (paragraph 0024) and animal-based protein concentrate (paragraph 0033) were commonly used in conjunction on food, since Young et al teach that doughs containing konjac glucomannan commonly had baking powder to provide leavening (column 17, line 37), and since all of these ingredients were commonly used in doughs in order to provide the desired taste, texture, and aroma.

8. Claim 31 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hunter et al as applied above, in view of Noguchi et al [Pat. No. 4,740,379].

Hunter et al teach the above mentioned concepts. Hunter et al do not recite extruding dough into the shell. Noguchi et al teach a method for extruding food into moulds (abstract). It would have been obvious to one of ordinary skill in the art to incorporate the extrusion feeding of Noguchi et al into the invention of Hunter et al since both are

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directed to methods of molding food, since Hunter et al teach frying many different types of food including meat (column 8, lines 20-34), and since Noguchi et al teach that meat was effectively supplied to moulds by extruding it (abstract).


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tye et al [pat. No. 5,308,636], Share et al [pat. No. 5,603,976], Masel et al [pat. No. 6,453,801], Mendez [Pat. No. 1,076,383], Gonja [Pat. No. 2,740,349], Hennessey [Pat. No. 6,508,166], Kelsey [Pat. No. 7,090,269], Bradbury [Pat. No. 1,266,912], Bartels [Pat. No. 1,994,268], Edgar [Pat. No. 2,039,477], Neville et al [Pat. No. 5,662,027], Bove [Pat. No. 6,598,515], Bentson [Pat. No. 4,535,688], Blaylock [Pat. No. 4,617,860], Roberts et al [Pat. No. 5,359,924] teach methods of cooking and preparing food.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Drew E. Becker whose telephone number is 571-272-1396. The examiner can normally be reached on Mon.-Fri. 8am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Keith Hendricks can be reached on 571-272-1401. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


DREW BECKER
PRIMARY EXAMINER
8-20-07